

Message Text

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A/OS - MR. GARRO (SUBSTANCE)

NEA/EX - MR. POLLEY (SUBSTANCE)

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R 211613Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY TEHRAN

UNCLAS STATE 198752

E.O. 1165 N/A

TAGS: AS H

SUBJECT: ARTICLE OF ASSOCIATION/TEHERAN AMERICAN SCHOOL

FOR PROVENCHER

THIS MESSAGE WILL CONFIRM DEPARTMENT RECOMMENDATIONS PREVIOUSLY RELAYED BY TELCON.

1. PROPOSED ARTICLES OF ASSOCIATION: DEPARTMENT RECOMMENDS ELIMINATION REFERENCES TO THE AMBASSADOR IN DRAFT ARTICLES OF ASSOCIATION, EXCEPT FOR INCLUSION OF RIGHTS OF AMBASSADOR ON BEHALF OF USG TO APPROVE IN ADVANCE DISPOSITION OF ANY MAJOR ASSETS OF FACILITY, AND USE OF PROCEEDS THEREFROM. ARTICLE SHOULD PROVIDE THAT USG HAS RIGHT TO ASSERT INTEREST IN SUCH ASSETS OR PROCEEDS TO EXTENT UNOBLIGATED GRANT BALANCES OR USG CAPITAL (AS OPPOSED TO OPERATIONAL) GRANT INTEREST MAY BE INVOLVED. OTHER PROPOSED REFERENCES TO AMBASSADOR ARE NOT/NOT NECESSARY IN OUR VIEW, AND MAY LEAD TO CONCERN THAT EMBASSY WITHOUT AUTHORITY IS EXERTING DIRECT CONTROL OVER EDUCATION SDACTIVITY OF SCHOOL.

2. WITH REGARD POSSIBLE LIABILITY AMBASSADOR OR ANY USG EMPLOYEE MEMBER OF SCHOOL BOARD FOLLOWING IS SUBMITTED FOR GUIDANCE BUT POST IS CAUTIONED AS INDICATED IN TELCON THAT IT IS NOT/NOT FEASIBLE TO COMMENT HERE ON ALL POTENTIAL
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AREAS OF LEGAL LIABILITY ARISING IN FOREIGN JURISDICTIONS

OTHER THAN IN REFERENCE TO SPECIFIC FACT SITUATIONS. DE-
PARTMENT'S AUTHORITY TO CONSIDER AND DETERMINE TORT CLAIMS

ARISING IN FOREIGN COUNTRIES IN CONNECTION WITH DEPARTMENT
OF STATE OPERATIONS ABROAD MAY BE FOUND IN 22 CFR 31.1 ETC.
AND 2 FAM 280 THROUGH 281.10. THESE DETERMINATIONS IN PART
INVOLVE AN ANALYSIS OF IRANIAN LAW, WHICH THE DEPARTMENT IS
NOT IN A POSITION TO PROVIDE, AND THE POST SHOULD REQUEST
AUTHORITY TO OBTAIN LOCAL LEGAL ADVICE FOR THIS PURPOSE,
SHOULD IT BECOME NECESSARY. THE QUESTION OF APPLICABILITY
OF DIPLOMATIC OR SOVEREIGN IMMUNITY IN THAT JURISDICTION
TO CLAIMS AGAINST PERSONS INVOLVED IN THE OPERATION OF THE
SCHOOL FACILITIES, WOULD HAVE TO BE CONSIDERED ON A CASE-
BY-CASE BASIS BY THE DEPARTMENT WITH REGARD TO WHETHER OR
NOT TO AUTHORIZE A DEFENSE OF IMMUNITY. MAW

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